IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 481 OF 2003.

Shri Premanand Putu Naik,
son of late Putu Bhozo Naik,
major, married, resident of
Thorlem Bhat, Dhongri,
Neura, Ilhas, Goa. ... Petitioner.

VERSUS

Fabrica de Mandur Church,
through its President,
Shri Conceicao Silva,
resident of Mandur,
Ilhas, Goa. ... Respondent.

Mr. S. G. Dessai, Senior Advocate with Mr. Shivan Dessai, Advocate for the Petitioner.

Mr. S. D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe, Advocate for the Respondent.

CORAM: A.M. KHANWILKAR, J.

DATE: 29TH NOVEMBER, 2003.

ORAL JUDGMENT:

Heard. Rule. Rule made returnable forthwith by consent. Mr. Bhobe waives notice for the Respondent.

2. As short point is involved, Petition taken up for hearing and heard forthwith by consent.

3. This petition under Article 227 of the Constitution, takes exception to the Judgment and Order passed by the Administrative Tribunal, Goa,

dated August 18, 2003 in Tenancy Revision Application No.49/96. It is not necessary for me to advert to all the events that have been unfolded while filing this Petition. Suffice it to mention that tenancy proceedings are pending before the Mamlatdar between the parties. During the said proceedings, application for interim relief was filed by the petitioner which was granted. That order has been granted by the Appellate Authority. However, the Revisional Authority namely the Administrative Tribunal, Goa has interfered with the said order and dismissed the application preferred by the Petition for temporary injunction. That is the Order which is subject matter of challenge in the present Writ Petition.

4. After having perused the records and considering the rival submissions across the Bar, I have no hesitation in observing that the Administrative Tribunal has clearly exceeded its jurisdiction in interfering with the revision application preferred by the respondent. It is seen from the Order passed by the Administrative Tribunal, particularly paragraph 10, while reversing the view taken by the Courts below, in fact, the Tribunal has examined the efficacy of various documents, which is obviously re-appreciation of evidence on record. It is well settled that the scope of exercise of revision

under Section 50 of the Goa Agricultural Tenancy Act is circumscribed by the provisions of Sub-Section (2) thereof. Reliance has been rightly placed on the decision of this Court reported in 1998(1) Goa L.T., 382 in the case of **Vidhyadhar Devba Korde and others v. Anandi Raghu Yeso Satarkar and others** to buttress the contention. I have not adverted to all the materials on record, lest any opinion expressed by me would affect the merits of the case pending before the Mamlatdar on the issue of tenancy between the parties. Suffice it to mention that the Administrative Tribunal ought not to have reversed the prima facie opinion recorded by the Courts below on the basis of same materials on the specious reasoning that the two Courts below solely relied on these agreements and the receipts pressed into service by the Petitioner.

5. In the circumstances this petition succeeds. The impugned Judgment and Order is set aside and instead the injunction order granted by the Courts below in favour of the petitioner is restored. Needless to mention that the direction issued by the Administrative Tribunal in the impugned Order to the Mamlatdar to dispose of the main application for declaration under Section 7 of the Act within nine months from the date the parties appear before the Mamlatdar, would remain as it is. The Mamlatdar shall

ensure that the main application is disposed of, in any case, within six months from today.

6. At this stage, Mr. Lotlikar, states that the Petitioner be restrained from felling of trees standing in the suit land. Mr. Dessai for the petitioner, gives an undertaking on behalf of the petitioner, on instructions, that the Petitioner shall not cut or fell any tree and will maintain status quo as of today in that behalf. That undertaking is accepted.

A.M. KHANWILKAR, J.

sl.